

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE MEDRANO,

Plaintiff requests a trial by jury

Plaintiff,

COMPLAINT

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, POLICE COMMISSIONER WILLIAM J.
BRATTON, and NYPD OFFICER JOHN DOE,

Defendants.
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Plaintiff, JOSE MEDRANO, as and for his Complaint, by his attorney, KUBICK & ASSOCIATES, P.C., respectfully alleges, upon information and belief, as follows:

JURISDICTION:

1. That Jurisdiction is founded upon the existence of Federal Question.
2. That this is an action to redress the deprivation under color of statute, ordinance, regulation, custom or usage of a right, privilege and immunity secured to plaintiff by the First and Fourteenth Amendments to the Constitution of the United States (42 U.S.C. sec. 1983) and arising under the law and statutes of the State of New York.
3. Jurisdiction is founded upon U.S.C. secs. 1331 and 1343(a)(3) and 1343(a)(4), this being an action authorized by law to redress the deprivation under color of law, statute, ordinance, regulation, custom and usage of a right, privilege and immunity secured to plaintiff by the First and Fourteenth Amendments to the Constitution of the United States.
4. The matter in controversy exceeds, exclusive of interest and costs, the sum or value of FIVE MILLION (\$5,000,000.00) DOLLARS.

PARTIES:

5. That the plaintiff is a Citizen of the United States and resident of the County of Bronx, City and State of New York.
6. That the defendant, The City of New York, was and still is a municipal corporation duly organized and existing under the Laws of the State of New York.

7. Upon information and belief, that at all times hereinafter mentioned, the defendant, The City of New York, its agents, servants, and employees operated, maintained and controlled the Police Department of the City of New York, a Department thereof, including all the police personnel thereof.
8. Upon information and belief, that at all times hereinafter mentioned, and prior, on and subsequent and continuing on or about September 17, 2015, Police Officer "John Doe, was employed by The City of New York, as a police officer, detective, sergeant, lieutenant, captain and/or other ranks.
9. Upon information and belief, that at all times hereinafter mentioned, defendant William J. Bratton, Commissioner of the Police Department of the City of New York was acting as Police Commissioner of The City of New York, and an employee of the City of New York.
10. Upon information and belief, that at all times hereinafter mentioned, the defendant William J. Bratton, Commissioner of the Police Department of the City of New York was hired by The City of New York as Police Commissioner of the Police Department of The City of New York and designated as head of the police officers for the City of New York.
11. This action arises under the United States Constitution, particularly under provisions of the Fourth and Fourteenth Amendments to the Constitution of the United States and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section 1983 and the rights under the Constitution and laws of the State of New York.
12. Each and all of the acts of the defendants alleged herein were done by the defendants, their agents, servants and employees, and each of them, not as individuals, but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York and the County of New York, and under the authority of their office as police officers of said state, city and county.
13. That Notice of the Plaintiff's Claim and Notice of Intention to Sue for Damages for improper and false arrest and imprisonment, violation of civil rights, negligence in training and supervising, the nature of the claim and the date of, the time when, the place where and the manner in which the claim arose was duly served upon the Comptroller of defendant, The City of New York, on or about December 16, 2015

14. That more than 30 days have elapsed since the Notice of Claim and Intention To sue has been served upon the defendants and the said defendants have neglected or refused to make any adjustments or payment thereof.

15. That this action is commenced within one year and 90 days after the causes of action arose.

AS AND FOR A FIRST CAUSE OF ACTION
ON BEHLAF OF PLAINTIFF

16. That plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "15" with the same force and effect as if more fully set forth herein.

17. That on or about September 17, 2015 Police Officer "John Doe" did improperly arrest, detain and imprison the plaintiff at or about 1605 Walton Avenue, Bronx, New York, without basis for same.

18. That the said arrest and imprisonment was caused by the defendants, their agents, servants and employees, without any warrant or other legal process and without authority of the law and without any reasonable cause or belief that the plaintiff was in fact guilty of such crimes.

19. That the defendants, their agents, servants and employees acting within the scope of their employment, detained and imprisoned the plaintiff even though the defendants, their agents, servants and employees, had the opportunity to know or should have known, that the matters hereinbefore alleged, wrongfully, unlawfully and without a sufficient charge having been made against the plaintiff, directed that the plaintiff be searched and placed in confinement at said location.

20. That the plaintiff was wholly innocent of said criminal charges and did not contribute in any way to the conduct of the defendants, their agents, servants and employees and was forced by the defendants to submit to the aforesaid arrest and imprisonment thereto entirely against his will.

21. That the defendants, their agents, servants and employees, as set forth aforesaid on the aforementioned date, time and place, intended to confine the plaintiff; in that the plaintiff was conscious of the confinement; plaintiff did not consent to the confinement; and that the

confinement was not otherwise privileged.

22. That by reason of the false arrest, imprisonment and detention of the plaintiff, plaintiff was subjected to great indignities, humiliation and ridicule in being so detained, charged and prosecuted with various crimes, and greatly injured in his credit and circumstances and was then and there prevented and hindered from performing and transacting his necessary affairs and business, and he was caused to suffer much pain in both mind and body.
23. That by reason of the foregoing, plaintiff has been damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF PLAINTIFF

24. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "23" with the same force and effect as if more fully set forth herein.
25. That on or about the above-referenced time period on that day, while plaintiff was lawfully within the above-referenced premises, the defendants, their agents, servants and employees, caused plaintiff to be, and did, without just cause or provocation and with great force seized and laid hold of plaintiff, and damaged the property thereof.
26. That by reason of the aforesaid, plaintiff has been damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION
ON BEHALF OF PLAINTIFF

27. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "26" with the same force and effect as if more fully set forth herein.
28. That the defendants, their agents, servants and employees were negligently, carelessly and recklessly failed to properly train and supervise their employees and affiliates.
29. That the aforesaid occurrence transpired as a result of said negligence of the defendants, without any negligence on behalf of the plaintiff.
30. That by reason of the aforesaid, plaintiff suffered the above-referenced damages.
31. That by reason of the aforesaid plaintiff has been damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION
ON BEHALF OF PLAINTIFF

32. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “31” with the same force and effect as if more fully set forth herein.
33. That the defendants, their agents, servants and employees were negligent in their performance of their duties, including in their police duties and administrative duties.
34. That the aforesaid occurrence transpired as a result of said negligence of the defendants, without any negligence on behalf of the plaintiff.
35. That by reason of the aforesaid plaintiff suffered the above-referenced damages
36. That by reason of the aforesaid, plaintiff has been damaged and requests compensatory damages of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR A FIFTH CAUSE OF ACTION
ON BEHALF OF PLAINTIFF

37. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “36” with the same force and effect as if more fully set forth herein.
38. That on or about the aforesaid time period and thereafter, the defendants, their agents, servants and employees caused plaintiff to be, and did, maliciously prosecuted plaintiff without any rights or grounds therefore.
39. That the plaintiff was and is wholly innocent, and was forced by the defendants to submit to court proceedings.
40. That the defendant, their agents, servants and employees acting in the performance of their employment and within the scope of their authority, falsely arrested plaintiff and released plaintiff the next day without charging plaintiff with a crime.
41. That the said false arrest and detainment were instituted and procured by the defendants, their agents, servants and employees in this action unlawfully and maliciously and without any reasonable or probable cause whatsoever therefor. That the commencement and/or continuation of the criminal proceedings by the defendants against the plaintiff was without probable cause, with actual malice and was terminated in favor of the plaintiff.
42. That by reason of the aforesaid unlawful and malicious prosecution, the plaintiff was

deprived of his liberty, was subjected to great indignity, humiliation, pain and great distress of mind and body and was held up to scorn and ridicule, was injured in his character and reputation, was injured in his reputation in his community and otherwise damaged.

43. That by reason of the aforesaid, plaintiff demands punitive damages in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR A SIXTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF

44. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "43" with the same force and effect as if more fully set forth herein.
45. That the defendants, their agents, servants and employees falsely arrested and imprisoned the plaintiff, and caused same, and deprived plaintiff of his rights and liberties as set forth in the Constitution of the United States and of the State of New York, handcuffed him and threatened him with the possible use of firearms and the use of physical force, falsely imprisoned plaintiff without his consent without privileged, arrested and imprisoned plaintiff without probable cause, and without charging plaintiff with any crime, assaulted and battered plaintiff, failed to properly supervise, train, retain, hire their agents, servants and employees, despite the foregoing causing a clear and present danger to the citizens of the City and State of New York, not as individuals, but under color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York, and under authority of their office as police officers for said entity.
46. Plaintiff did not commit any illegal act, either or at the time he was falsely arrested and imprisoned and released, the next day, without being charged and deprived of his constitutional rights as set forth in the Constitution of the United States, particularly 42 U.S.C. Sec. 1983 and the Constitution of the State of New York.
47. The defendants, and other persons unknown to plaintiff, acting under color of law, have subjected plaintiff and other persons to a pattern of conduct consisting of illegal harassment, assault and battery, false imprisonment and arrests of persons, in the City and State of New York, in denial of rights, privileges and immunities guaranteed plaintiff and other citizens by the Constitutions of the United States.

48. This systematic pattern of conduct consists of a large number of individual acts of violence, intimidation, false arrest and false imprisonment upon plaintiff and other citizens by members of the police department of the defendant, City of New York, acting in concert with persons unknown to plaintiff and under color of law, are illegal, improper and unrelated to proper activities of police officers.
49. Although the defendants, knew or should have known of the aforesaid pattern of conduct, the defendant, The City of New York, failed to take any steps to redress or halt same.
50. The rights of the plaintiff under Constitutions of the United States and State of New York have been violated, including those arising from the Fourth, Sixth and Fourteenth Amendments to the Constitution of the United States of America.
51. That by reason of the aforesaid, the plaintiff has been damaged and requests compensatory damages of FIVE MILLION (\$5,000,000.00) DOLLARS. And punitive damages of FIVE MILLION (\$5,000,000.00) DOLLARS

AS AND FOR A SEVENTH CAUSE OF ACTION
ON BEHALF OF PLAINTIFF

52. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "51" with the same force and effect as if more fully set forth herein.
53. That by reason of the aforesaid plaintiff demands punitive damages in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR AN EIGHTH CAUSE OF ACTION
ON BEHALF OF PLAINTIFF

54. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "53" with the same force and effect as if more fully set forth herein.
55. That Plaintiff was subject to all of foregoing because of his national origin, race, thereby in violation of his Federal, State and City Constitutional rights
56. That by reason of the aforesaid, plaintiffs demands punitive damages in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS.

WHEREFORE, the plaintiff demands judgment against the defendants in the sum of FIVE MILLION DOLLARS on each of the causes of action; FIVE MILLION DOLLARS in

compensatory damages and TEN MILLION DOLLARS in punitive damages.

Dated: New York, New York
November 18, 2016

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BY: 

RICHARD KUBICK (RAK-8331)